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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91206915
Party	Defendant Lucas, Eric
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Submission	Answer
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Date	10/20/2012
Attachments	Answer (executed).pdf (4 pages)(2169184 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 85/597114
Mark: MY HERO
Published in the *Official Gazette* on August 28, 2012

MYBODY, LLC

Opposer,

v.

Opposition No. 91206915

ERIC LUCAS,

Applicant.

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION AND AFFIRMATIVE DEFENSES

Commissioner for Trademarks
United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Applicant, Eric Lucas, respectfully submits this Answer to the Notice of Opposition submitted by Opposer mybody, LLC. Except as expressly admitted below, Applicant denies each and all allegations contained in Opposer's Notice of Opposition.

1. Applicant admits the allegations contained in Paragraph 1 of Opposer's Notice of Opposition.
2. Applicant admits the allegations contained in Paragraph 2 of Opposer's Notice of Opposition.

3. Applicant denies the allegations contained in Paragraph 3 of Opposer's Notice of Opposition.

4. Applicant states that he is without sufficient information to admit or deny the truth of the allegations contained in Paragraph 4 of Opposer's Notice of Opposition and puts Opposer to its strict burden of proof thereof.

5. Applicant denies the allegations contained in Paragraph 5 of Opposer's Notice of Opposition.

6. Applicant states that he is without sufficient information to admit or deny the truth of the allegations contained in the first sentence of Paragraph 6 of Opposer's Notice of Opposition and puts Opposer to its strict burden of proof thereof. Applicant denies the remaining allegations contained in Paragraph 6 of Opposer's Notice of Opposition.

7. Applicant states that he is without sufficient information to admit or deny the truth of the allegations contained in the first sentence of Paragraph 7 of Opposer's Notice of Opposition and puts Opposer to its strict burden of proof thereof. Applicant states that he is without sufficient information to admit or deny the truth of the allegations contained in the second sentence of Paragraph 7 of Opposer's Notice of Opposition and puts Opposer to its strict burden of proof thereof. Applicant denies the remaining allegations contained in Paragraph 7 of Opposer's Notice of Opposition.

8. Applicant denies the allegations contained in Paragraph 8 of Opposer's Notice of Opposition.

9. Applicant denies the allegations contained in Paragraph 9 of Opposer's Notice of Opposition.

10. Applicant denies the allegations contained in Paragraph 10 of Opposer's Notice of Opposition.

11. Applicant denies the allegations contained in Paragraph 11 of Opposer's Notice of Opposition.

12. Applicant denies the allegations contained in Paragraph 12 of Opposer's Notice of Opposition.

AFFIRMATIVE DEFENSES
(GENERAL)

Applicant reserves the right to rely on any or all available affirmative defenses to the counts and claims asserted by Opposer to the extent such defenses are supported by information developed through discovery or by evidence produced at trial or in connection with any pre-trial proceedings.

AFFIRMATIVE DEFENSES

13. Opposer's Notice of Opposition fails to state a claim upon which relief may be granted.

14. Opposer is not the owner of its purported trademark MYHERO.

15. Opposer has not acquired any secondary meaning for its purported trademark.

16. Applicant has superior rights in its mark MY HERO.

17. Applicant has made fair use of the mark MY HERO.

18. Opposer's claims are barred by the doctrines of waiver and unclean hands.


19. Opposer's claims are barred by the doctrines of estoppel, laches, and/or acquiescence.

WHEREFORE, Applicant respectfully requests that Opposer's Notice of Opposition be denied and that Applicant's Application Serial No. 85/597114 be granted registration.

Respectfully submitted,


Dated: October 20, 2012

ERIC LUCAS

By: 
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Certificate of Service and Transmittal: I hereby certify that a copy of the foregoing **ANSWER TO NOTICE OF OPPOSITION AND AFFIRMATIVE DEFENSES** is being electronically transmitted in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trials and Appeals (ESTTA) on the date indicated below, with a copy sent by first class mail, postage prepaid, to: mybody, LLC through its counsel Jennifer L. Lefere, Hool Law Group, PLC, Suite 1020, 2398 East Camelback Road, Phoenix, AZ 85016.

Dated: October 20, 2012


Damon L. Ward